

United States District Court
For the Northern District of California

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7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
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12 ORACLE USA, INC., et al.,
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14 Plaintiffs,

No. C 07-1658 PJH

15 v.
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ORDER

SAP AG, et al.,
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Defendants.

18 The court has reviewed Magistrate Judge Laporte's September 17, 2009, Order
19 granting defendants' motion for preclusion of certain damages evidence, and the papers
20 filed in connection with the motion, as well as Oracle's objections to the Order and
21 defendants' response thereto. The objections are OVERRULED.

22 The court agrees with defendants that the order is non-dispositive, but to the extent
23 that any portion of the ruling might be viewed as dispositive, the court finds the order
24 correct and well-reasoned, and adopts it in its entirety.

25 The court furthermore clarifies that the precluded evidence will NOT be admitted
26 through the back door in order that "Oracle's witnesses can testify to all impacts they
27 perceived from Defendants' unlawful activities." Nevertheless, should defendants take the
28 position at trial that Oracle's damages are excessive, Oracle will be permitted to advise the

1 jury that it is not seeking all the damages to which it believes it is entitled, or that the court
2 has precluded it from seeking all the damages to which it believes it is entitled, or
3 something similar. The specific language of the jury instruction will be determined during
4 the pretrial process.

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6 **IT IS SO ORDERED.**

7 Dated: November 2, 2009



8 PHYLIS J. HAMILTON
9 United States District Judge